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EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 5 March 2010

on amendments to the Law on and Statute of Eesti Pank

(CON/2010/20)

Introduction and legal basis

On 10 February 2010 the European Central Bank (ECB) received a request from Eesti Pank for an opinion on a draft decision of Eesti Pank's Supervisory Board to amend Eesti Pank's Statute and on 18 February 2010 a request for an opinion on a draft law amending the Law on Eesti Pank (hereinafter the 'draft provisions').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union (TFEU) and the third indent of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions[1], as the draft provisions relate to the national central bank. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft provisions

The draft provisions replace references to the Treaty establishing the European Community with references to the TFEU and include additional references to the TFEU and Union legal acts in articles on the competence and meetings of the Supervisory Board. The draft provisions also set Eesti Pank's capital in euro. The provision on a standing Monetary Policy Committee in Eesti Pank's Statute is repealed, as is the provision on the monetary financing prohibition in the Law on Eesti Pank. The draft provisions will enter into force on the date of abrogation of Estonia's derogation pursuant to Article 140(2) TFEU, except some minor consistency corrections concerning the Statute which will enter into force upon the adoption of the Supervisory Board's decision.

1 OJ L 189, 3.7.1998, p. 42.

2. General observations

2.1 The draft provisions are in line with the ECB recommendations for improving the clarity of legislative provisions made in previous convergence reports[2]. This opinion is without prejudice to the assessment of Estonian legislation in the upcoming convergence report.

2.2 The ECB notes that the draft provisions repeal Article 16 of the Law on Eesti Pank transposing the monetary financing prohibition contained in Article 123 TFEU. Article 16 lays down that Eesti Pank is prohibited from granting loans to the public sector. However, Article 16 is not fully in line with Article 123 TFEU for two reasons. First, it does not extend the prohibition on monetary financing to direct purchases by Eesti Pank of debt instruments from public sector entities. Second, it does not exempt publicly-owned credit institutions from the prohibition in the context of supply of reserves by national central banks. Provisions containing such imperfections should either be amended or repealed, especially as Article 123 TFEU is directly applicable and there is, therefore, generally, no reason to transpose it into national legislation. The ECB therefore welcomes the draft provisions in this respect.

2.3 The ECB also notes that after the repeal of the articles on the Monetary Policy Committee by the draft provisions and other changes, the scope of Eesti Pank's Statute is now largely limited to repeating the provisions of the Law on Eesti Pank.

Done at Frankfurt am Main, 5 March 2010.

[signed]

The President of the ECB

Jean-Claude TRICHET

2 See the ECB's Convergence Report of December 2006, p. 213, and that of May 2008 p. 235.